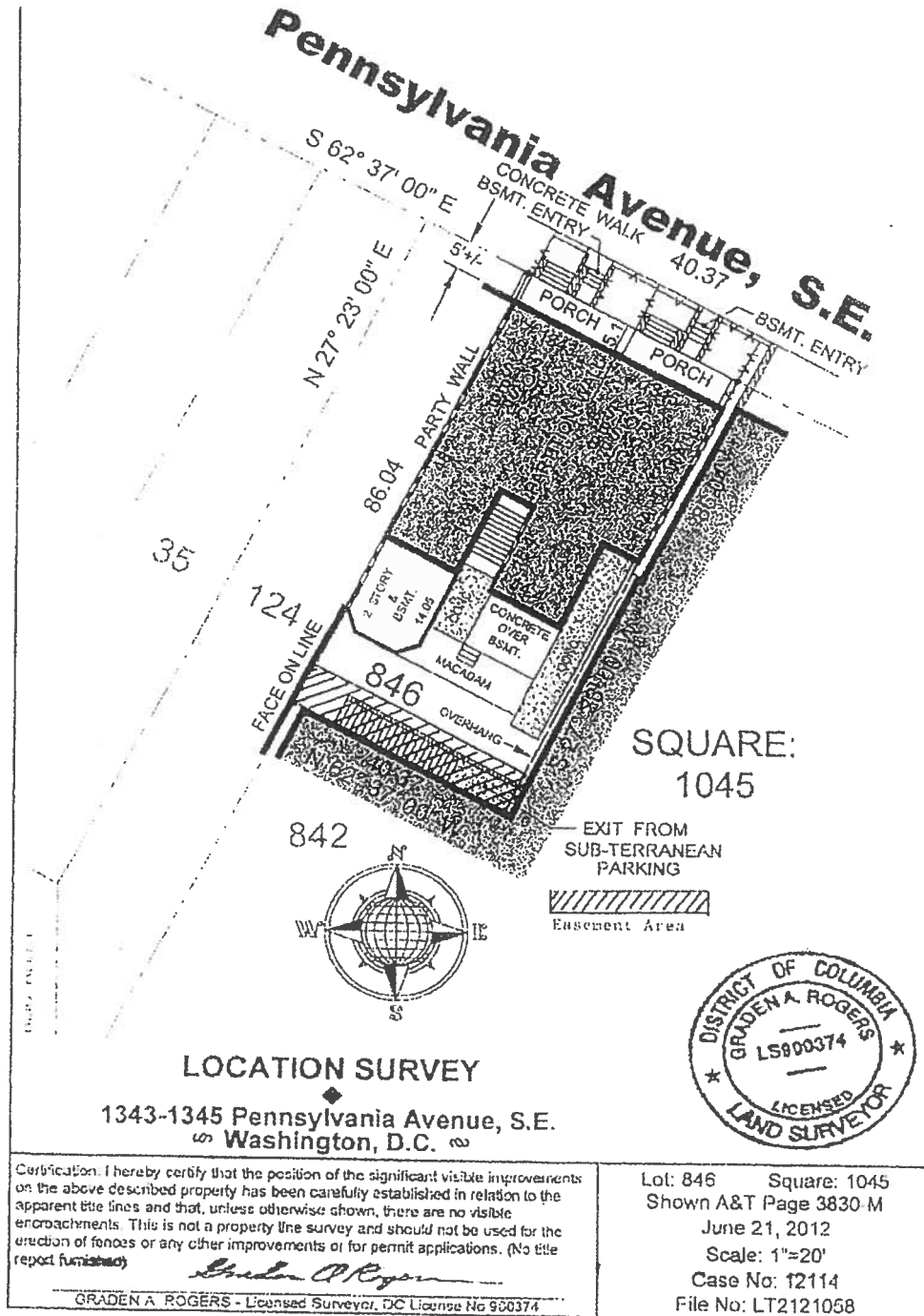


# EXHIBIT "C"

## EASEMENT AREA - PLAN



★★  
3A-17  
17705

District of Columbia Government  
Department of Consumer and Regulatory Affairs  
Building and Land Regulation Administration  
P.O. Box 37200 — Washington, D.C. 20002-7200

130893

# CERTIFICATE OF OCCUPANCY

3/1/02  
(date)

mission is hereby granted to CAPITAL COMMITMENT, INC.

se suite(s) 1st & 2nd FLRS on the 0830 floor(s)

re building located on lot(s) 1343 PENNSYLVANIA AVE, SE square 1045

wn, as premises OFFICE SPACE for the following

poss(s) NOT SEXUALLY ORIENTED [ ]

A #                      EXPIRATION DATE:                     

ZONE C-2-A FEE \$ 32.00

By DECLAN Director  
[Signature]  
Designee

OFFICE COPY

3 CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is set, ONLY for the premises or part thereof, and for the purpose(s) indicated above. IT IS NOT TRANSFERABLE to another person or premises under ANY conditions. A CHANGE in the type of business, ownership of business, or part of premises and thereof, will render this Certificate VOID and a NEW Certificate must be obtained.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

★ ★ ★  
■■■■■  
■■■■■

Application No. 17224 of JPI Apartments Development LP on behalf of Father Flanagan's Boys Home, et al, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 772, and a variance from the residential recreation space requirements under section 773, to construct a five story mixed-use residential development including residential units, grocery store, and additional retail in the C-2-B District at premises Pennsylvania and Potomac Avenues, S.E. (Square 1045, Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839).

**HEARING DATE:** October 26, 2004  
**DECISION DATE:** October 26, 2004 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 6B. ANC 6B submitted a letter in support of the application. The OP submitted a report recommending support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2, 772 and 773. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 772 and 773, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the

public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

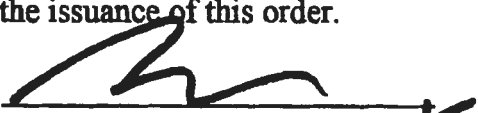
Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE:**        4-0-1        (Curtis L. Etherly, Jr., John A. Mann, II, Geoffrey H. Griffis and Ruthanne G. Miller to approve, the Zoning Commission member not present, not voting).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring Board member has approved the issuance of this order.

**ATTESTED BY:**

  
**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning

**FINAL DATE OF ORDER:** OCT 28 2004

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 17224**

As Director of the Office of Zoning, I hereby certify and attest that on OCT 28 2004 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr., Esq.  
Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W., Suite 100  
Washington, D.C. 20006

Chairperson  
Advisory Neighborhood Commission 6B  
921 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003

Commissioner 6B07  
Advisory Neighborhood Commission 6B  
921 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003

Sharon Ambrose, City Councilmember  
Ward Six  
1350 Pennsylvania Avenue, N.W., Suite 102  
Washington, D.C. 20004

Toye Bello, Zoning Administrator  
Building and Land Regulation Administration  
Department of Consumer and Regulatory Affairs  
941 N. Capitol Street, N.E.  
Washington, D.C. 20002

Ellen McCarthy, Deputy Director  
Office of Planning  
801 North Capitol Street, N.E.  
4<sup>th</sup> Floor

BZA APPLICATION NO. 17224

PAGE NO. 2

Washington, D.C. 20002

Alan Bergstein, Esq.  
Office of Attorney the General  
441 4<sup>th</sup> Street, N.W., 6<sup>th</sup> Floor  
Washington, D.C. 20001

rsn

ATTESTED BY:

  
JERRILY R. KRESS, FAIA ✓  
Director, Office of Zoning

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

OCTOBER 26, 2004

+ + + + +

The Public Hearing convened in Room 220 South, 441<sup>th</sup> Street, N.W., Washington, D.C. 20001, pursuant to notice, at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

|                     |                     |
|---------------------|---------------------|
| GEOFFREY H. GRIFFIS | Chairperson         |
| RUTHANNE MILLER     | Vice Chairperson    |
| CURTIS ETHERLY, JR. | Board Member        |
| JOHN MANN II        | Board Member (NCPC) |

ZONING COMMISSION MEMBER PRESENT:

|              |              |
|--------------|--------------|
| JOHN PARSONS | Commissioner |
|--------------|--------------|

OFFICE OF ZONING STAFF PRESENT:

|                |                   |
|----------------|-------------------|
| CLIFFORD MOY   | Secretary         |
| BEVERLY BAILEY | Zoning Specialist |
| JOHN NYARKU    | Zoning Specialist |

This transcript constitutes the minutes from the public hearing held on October 26, 2004.

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**Exhibit D**



OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
JOEL LAWSON  
STEPHEN MORDFIN  
TRAVIS PARKER  
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL STAFF PRESENT:

LORI MONROE, ESQ.

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| Shaw, Pittman, Potts & Trowbridge                    |             |
| 5750 33rd Street N.W.                                |             |
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| 1900 K Street, N.W., Suite 1200                          |             |
| Washington, D.C. 20006-1109                              |             |
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| 2099 Pennsylvania Avenue, N.W.                           |             |
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## P R O C E E D I N G S

Time: 9:43 a.m.

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. I am going to call to order the 26 October 2004 Public Hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Geoff Griffis, Chairperson. Joining me today is Vice Chair, Ms. Miller; representing the National Capital Planning Commission is Mr. Mann, and we are going to have our third and esteemed member, Mr. Etherly, shortly. He has been delayed temporarily this morning.

Copies of today's hearing agenda are available for you. They are located where you entered into the hearing room there on the wall. Please pick it up, and you can see where you are in the chronology of this morning's cases.

Several very important things I need to go through in our opening statements. First, all proceedings before the Board of Zoning Adjustment are recorded. Therefore, there are several things attendant to that.

First of all, we are recorded in two fashions. One is the court reporter, sitting to my right on the floor, which is creating the official

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1 a summary order on this.

2 MS. BAILEY: Thank you, sir.

3 CHAIRPERSON GRIFFIS: Good. Now before we  
4 go, in terms of, Ms. Miller, your comment in terms of  
5 the applicant wasn't asking for the canopy -- Oh, I'm  
6 sorry, Mr. Mann indicated. They actually were. The  
7 original application was that. They decided to take  
8 it out because of a community comment is more my  
9 concern than anything else, and that is, look, the  
10 Board can make its own judgment. We want to hear from  
11 everybody else, but there is no reason why decisions  
12 should be made before they get to us. They can be,  
13 but they don't have to be, which is the only reason  
14 why I thought it important to bring up.

15 Very well. Let's move ahead. Anything  
16 else, procedural questions I can answer? Thank you  
17 all very much. Ms. Tyler, thank you. It's always  
18 good to see you.

19 Let's call the next case then.

20 MS. BAILEY: Application Number 17224 of  
21 JPI Apartments Development LP on behalf of Father  
22 Flanagan's Boys Home and others, pursuant to 11 DCMR  
23 3103.2, for a variance from the lot occupancy  
24 requirements under section 772, and a variance from  
25 the residential recreation space requirements under

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1 MR. GLASGOW: Thank you. In proceeding  
2 with this case, the applicant and its representatives  
3 have been to several meetings with the community and  
4 with the Council member, and has received wholehearted  
5 support from the Capitol Hill community and the ANC on  
6 this project.

7 The applicant is proceeding before you  
8 today to request variances from the percentage of lot  
9 occupancy and the residential recreation space  
10 requirements of the C-2-B District.

11 This case represents an opportunity to  
12 develop -- redevelop a long under-utilized site at a  
13 critical location near a Metro station with a  
14 significant residential project containing 247  
15 dwelling units and a grocery store for an underserved  
16 community.

17 The subject lot has a very large size,  
18 over 95,000 square feet, and is almost triangular in  
19 shape.

20 With respect to the percentage of lot  
21 occupancy variance, the applicant notes that this is a  
22 very technical area of relief, and is caused by the  
23 mixing of residential and commercial uses on the  
24 ground floor.

25 The ground floor has a lot occupancy of

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1 approximately 96 percent, whereas 100 percent lot  
2 occupancy would be permitted if only the grocery store  
3 and retail uses were located on the ground floor. The  
4 upper floors where residential dwelling units are  
5 located has a 72 percent lot occupancy, which is well  
6 within the regulation.

7 Mixing the two uses and maintaining the  
8 ability and flexibility to potentially convert the two  
9 existing townhouses along Pennsylvania Avenue to  
10 residential use and the location of residential  
11 recreation space on the ground floor are what  
12 necessitate the variance relief.

13 The applicant submits that the Statement  
14 of Applicant at pages 3 to 5 and the report of the  
15 Office of Planning adequately state the rationale for  
16 the granting of the variance relief and how the three-  
17 prong test is met.

18 With respect to the residential recreation  
19 space requirement, the applicant is providing over  
20 22,000 square feet of residential recreation space out  
21 of a requirement of approximately 40,000 square feet.

22 A review of the site plan will show the  
23 extensive outdoor residential recreation space  
24 provided in the interior courtyard which is  
25 approximately 17,000 square feet. There are also roof

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1 residential cannot occupy more than 80 percent of that  
2 first level, but the first level can be occupied 100  
3 percent?

4 MR. GLASGOW: That has not been the way it  
5 has been interpreted in the past.

6 CHAIRPERSON GRIFFIS: When? Now? Always?

7 MR. GLASGOW: Since I've been practicing,  
8 which is 27 years.

9 CHAIRPERSON GRIFFIS: Is that right? How  
10 do you do a mixed use building? So you could never  
11 have a mixed use building?

12 MR. GLASGOW: What they have done is they  
13 recognize that you can have a residential lobby.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. GLASGOW: But if you have anything  
16 more than the lobby, then you now are having  
17 residential use, and where -- There were two things  
18 that brought us into this. One is we want to maintain  
19 the flexibility with respect to the townhouses to have  
20 a residential unit on the ground floor.

21 CHAIRPERSON GRIFFIS: Right.

22 MR. GLASGOW: Okay? So that, under any of  
23 the interpretations, would necessitate a variance  
24 relief.

25 CHAIRPERSON GRIFFIS: Why?

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1 MR. GLASGOW: Because the ground floor is  
2 96 percent lot occupancy.

3 CHAIRPERSON GRIFFIS: But not  
4 residentially occupied at 96 percent.

5 MR. GLASGOW: Right. Well, what they did  
6 is --

7 CHAIRPERSON GRIFFIS: Kind of funny to be  
8 arguing this direction, isn't it?

9 MR. GLASGOW: Okay. It's 772.1.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. GLASGOW: Okay. And it says no  
12 portion -- I'm sorry. In a commercial district, no  
13 building or portion of a building devoted to a  
14 residential use, including residential -- including  
15 accessory buildings but excluding hotels, shall occupy  
16 the lot upon which it is located in excess of the  
17 percentage of lot occupancy in the following table.

18 What they have said is, if you have  
19 dwelling units -- and I have had cases on this in the  
20 past that, if you have -- I think Billy Martin's  
21 Tavern, we had percentage of lot occupancy issue, and  
22 there were some others that, as soon as you put a  
23 residential unit on the ground floor, if you are over  
24 the 80 percent, you went to the Board.

25 CHAIRPERSON GRIFFIS: I see. I see the

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1 issue or problem with what the Zoning Administrator  
2 did, you took your letter and you went to the Board.  
3 Now in the days of self-certification, if we think we  
4 may have an area of relief, we are going to ask for  
5 it, because we can't be in a position where we go  
6 through the Board, we hopefully are successful in our  
7 case, go back and then someone says you need a  
8 percentage of lot occupancy variance, and we are in  
9 there with our working drawings ready to get a permit.

10 CHAIRPERSON GRIFFIS: Right. And that I  
11 understand. Does everybody understand that? Okay.

12 VICE CHAIRPERSON MILLER: I just also want  
13 to know, is there any legislative history on this  
14 provision as to how it should be interpreted?

15 MR. GLASGOW: Mr. Sher, do you want to  
16 respond to that?

17 MR. SHER: For the record, my name is  
18 Steven E. Sher, the Director of Zoning and Land Use  
19 Services with the law firm of Holland & Knight.

20 The only legislative history I know of  
21 that relates to this is when a CR District was created  
22 in 1974, they wrote a different provision in the  
23 regulations as it relates to lot occupancy for a  
24 specifically designed mixed use zone.

25 That provision basically says you can

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1 compute lot occupancy at the lowest plane at which  
2 residential uses begin. In other words, this doesn't  
3 say that. This just says, you know, lot occupancy is  
4 basically calculated at the ground.

5 In the CR District, it was written in that  
6 lot occupancy was calculated at the lowest plane where  
7 residential uses begin, and that was clearly taken to  
8 mean excluding the lobby or, in this case, residential  
9 recreation space. It was you go down to where people  
10 live, and that is the horizontal level at which you  
11 compute lot occupancy.

12 We thought we were enrolling in the code  
13 the practice that had been done before, but the  
14 regulations don't ever say that explicitly. So when  
15 the regs for commercial zones were changed in 1978,  
16 that provision was not updated.

17 So you got two somewhat different  
18 provisions in the regulations, and if Mr. Quinn were  
19 here, he would quote the Latin phrase about what is  
20 different and, I don't know -- You know the one. I  
21 don't know that one, but whatever. It's got to mean  
22 something different, if it says something different.

23 So whatever. As Mr. Glasgow says, we have  
24 always operated on the assumption that a building or a  
25 portion of a building could mean a horizontal

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1 separation, a vertical separation, but in this case  
2 you wind up with that piece of the -- and I guess I'm  
3 getting into what I would be saying later, but I'll  
4 say it now anyhow -- that piece of the building, which  
5 is just that little bit of residential recreation  
6 space, which is surrounded by other parts of the  
7 building that are commercial and nonresidential in  
8 use.

9           You can't sort of define a portion of the  
10 building around that residential recreation space and  
11 say, oh, that portion of the building complies with  
12 the 80 percent lot occupancy, because we are counting  
13 that residential recreation space against our  
14 residential gross floor area.

15           So we have residential use, even though it  
16 is not dwelling units, on the first floor where the  
17 rec space is, and we may even -- Though right now we  
18 have calculated the two existing townhouse structures  
19 in our commercial FAR, we want to be able to possibly  
20 convert those to residential, and they would be at  
21 that level now on those, and you can see them on the  
22 upper point of the triangle there.

23           There actually is some rear yard space  
24 around those and, if you took a portion of those two  
25 buildings, you might be able to come up with the right

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1 future development, as we are proposing a two-story  
2 underground parking garage with five stories above it.

3 As part of our change --

4 CHAIRPERSON GRIFFIS: What are you doing  
5 with the old ones? What are you doing with the other  
6 ones?

7 MR. LIEBERT: Well, the two that we are  
8 saving are actually not part of the Boys Town. They  
9 are existing townhouses located on Pennsylvania  
10 Avenue.

11 CHAIRPERSON GRIFFIS: So what is happening  
12 with all that? Can you gut them and ship them off to  
13 my neighborhood?

14 MR. LIEBERT: They salvaged -- They  
15 actually went through and took out all of the  
16 appliances, HVAC, tile, door trim, doors, windows.

17 CHAIRPERSON GRIFFIS: They are all going  
18 away?

19 MR. LIEBERT: They are pretty much chopped  
20 out now. When we did bring forward the grocery store,  
21 we realized we needed a little bit more land, and that  
22 is what drove us to buy the other two townhouses that  
23 are up there, which allowed for some increased parking  
24 for the grocery space.

25 CHAIRPERSON GRIFFIS: I see.

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1 MR. LIEBERT: That was what we thought was  
2 the biggest challenge, is making sure we had enough  
3 parking so we didn't disrupt the community in that.

4 CHAIRPERSON GRIFFIS: The grocery stores  
5 at grade entrance level parking. Is that correct?

6 MR. LIEBERT: They want some. So  
7 generally speaking, they want all.

8 CHAIRPERSON GRIFFIS: Generally speaking,  
9 grocery stores want, you know, a sea of parking around  
10 the front of the box in the middle.

11 MR. LIEBERT: Correct.

12 CHAIRPERSON GRIFFIS: And you are finding  
13 in this specific case with who you signed a lease with  
14 that they also would like to maximize the parking  
15 adjacent to the entrance or on the same level?

16 MR. LIEBERT: Correct.

17 CHAIRPERSON GRIFFIS: I see. Okay. What  
18 else?

19 MR. LIEBERT: So we have here, if I can  
20 get up and point to the project here -- Does this  
21 work? Is this on?

22 CHAIRPERSON GRIFFIS: I think it was on.

23 MR. LIEBERT: It was on. All right. We  
24 have Potomac Avenue on this side of the board,  
25 Pennsylvania Avenue. These are the two townhouses.

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1 We acquired the townhouses. We are going to keep the  
2 existing townhouses and expand the parking underneath  
3 the building in the rear, underneath the grocery  
4 store.

5 The grocery store is located at the  
6 intersection of Potomac and Pennsylvania. It is  
7 accessed off of Potomac Avenue, as we have a very  
8 large expanse of right of way that we can take  
9 advantage of versus a very limited amount on  
10 Pennsylvania Avenue.

11 We have retail at the corner which will be  
12 separate from the grocery space. We have additional  
13 retail located further down on Potomac Avenue, and  
14 this is where our residential amenities will be  
15 located, as he has shown there.

16 We have access to the retail parking in  
17 the middle of the site in which they can park directly  
18 underneath this building and walk across, and then the  
19 access to the residential parking is located here.  
20 And then they dive down underneath the retail parking  
21 so that it is segregated and private.

22 Our access again for residential for the  
23 condominiums is going to be at this location. Where  
24 you come in, we will have a lobby, business center,  
25 fitness center, community amenities, and that opens up

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1 BOARD MEMBER ETHERLY: Okay. Thank you.  
2 Thank you, Mr. Chair.

3 CHAIRPERSON GRIFFIS: Good. Ms. Miller?

4 VICE CHAIRPERSON MILLER: Could you just  
5 clarify for me about the rowhouses? There are  
6 rowhouses that you are not sure whether you are going  
7 to use them residentially or commercially?

8 MR. GLASGOW: We want to have the option.  
9 They are presently commercially used. We want to  
10 have the option to either put back residential use or  
11 to continue to use them commercially.

12 VICE CHAIRPERSON MILLER: Okay. And the  
13 large tract review process: Is the ultimate approval  
14 by Office of Planning or is it by another entity?

15 MR. GLASGOW: Well, in the large tract  
16 regulations, the Office of Planning is called the lead  
17 agency for the review, and so they coordinate the --  
18 They disseminate information, get information back,  
19 and then ultimately what you get is a letter from the  
20 Director of the Office of Planning upon the completion  
21 of the large tract review process.

22 VICE CHAIRPERSON MILLER: Okay. thank  
23 you.

24 CHAIRPERSON GRIFFIS: Anything else?  
25 Good. Let's move on. Anything else, Mr. Glasgow?

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1 MR. GLASGOW: That concludes the  
2 applicant's direct presentation.

3 CHAIRPERSON GRIFFIS: Excellent. Thank  
4 you. Let's move on to the Office of Planning. Mr.  
5 Lawson is with us, and a very good afternoon to you,  
6 sir.

7 MR. LAWSON: Good afternoon. Thank you,  
8 Mr. Chair, members of the Board. My name is Joel  
9 Lawson. I am with the D.C. Office of Planning.

10 Very briefly, this 2.2 acres subject site  
11 is located at the intersection of Pennsylvania and  
12 Potomac Avenues. The property is zoned C-2-B. I  
13 would like to point out a small correction in my  
14 report. I think the report noted that the entire  
15 square is zoned C-2-B. Actually, portions of the  
16 square are zoned R-4 and -- sorry, R-4 and C-2-A, but  
17 the subject property is entirely zoned C-2-B.

18 Most the existing development on the site  
19 other than the two rowhouses on Pennsylvania Avenue  
20 would be removed. The applicant is proposing to  
21 construct a new five-story building with two levels of  
22 underground parking.

23 There would be predominantly retail uses  
24 on the ground floor, including the new grocery store,  
25 parking and loading facilities. On the upper floors

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1 would be 247 residential units facing out at the  
2 streets or an internal landscaped courtyard.

3 The rowhouses, according to the applicant,  
4 would be retained as either commercial or residential  
5 use.

6 As has been noted, variances to lot  
7 occupancy and residential recreation space  
8 requirements are requested.

9 With regard to lot occupancy, the zone  
10 permits a maximum of 80 percent for a building or  
11 portions of the building devoted to a residential use  
12 and 100 percent for a commercial building.

13 The predominantly commercial ground floor  
14 would have a lot occupancy of 96 percent, whereas the  
15 residential upper floors have a lot occupancy of 72  
16 percent, mainly due to the large internal courtyard.

17 The zoning regulations state that lot  
18 occupancy is calculated on a horizontal plane located  
19 at the lowest level where residential uses begin.

20 Although the ground floor is almost entirely  
21 commercial, it does include the two existing rowhouses  
22 on Pennsylvania Avenue that are to be retained and  
23 which may be residential.

24 Technically then, a variance is required  
25 as the development includes a very small amount of

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1 potential residential on the ground floor, and the  
2 ground floor has a lot occupancy of 96 percent, which  
3 is greater than the maximum permitted.

4 With regard to residential recreation  
5 space, the zone requires that an area equivalent to 15  
6 percent of total residential area be devoted to  
7 residential recreation space. The applicant is  
8 proposing just over half this required amount, again  
9 most of it in a large landscaped courtyard.

10 OP feels that the application meets the  
11 variance test for both lot occupancy and for  
12 residential recreation space. The proposal further  
13 has overall goals and objectives for this area in  
14 accordance to zoning regulations in terms of use and  
15 building bulk.

16 Retention of the two rowhouses will help  
17 the new development fit in with the streetscape along  
18 Pennsylvania and minimize the potential direct impacts  
19 of the new development on other existing rowhouse  
20 owners and occupants further up the street.

21 The proposed recreation space is easily  
22 accessible and of a configuration which should appeal  
23 to new residents, and there are remaining  
24 opportunities for other forms of recreation in the  
25 general area.

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1           The applicant notes that the ANC has  
2 unanimously voted to support this application at its  
3 meeting of September 14, 2004. No other District  
4 agency has noted opposition to the proposal. DDOT had  
5 discussions with the applicant leading to an  
6 acceptable design from their standpoint for both  
7 parking and loading.

8           The Fire Department and WASA raised issues  
9 of a technical nature that will be dealt with at the  
10 permit stage as a standard practice, and as the  
11 applicant has noted, there will be another opportunity  
12 to address issues with both DDOT and these other  
13 departments through the large tract review process,  
14 which is underway even as we speak.

15           The proposal represents the provision of  
16 new housing and significant retail, particularly a new  
17 grocery store, to this part of the Capitol Hill  
18 neighborhood. OP believes that the proposal conforms  
19 to our planning initiatives. As such OP recommends  
20 approval of the application, subject to -- We  
21 originally recommended subject to satisfaction of the  
22 DDOT concerns regarding loading timing. OP would have  
23 no concerns, as suggested by the applicant, that those  
24 would be more appropriately dealt with through the  
25 large tract review process.

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1 This concludes my presentation, and I am  
2 available for questions. Thank you.

3 CHAIRPERSON GRIFFIS: Thank you very much,  
4 Mr. Lawson. Excellent report. Let's go into  
5 questions from the Board.

6 VICE CHAIRPERSON MILLER: Mr. Lawson, I'd  
7 be interested in your view on 772.1. Like some other  
8 of our regulations, just reading the plain words of  
9 the regulation, sometimes they can be read in  
10 different ways. I want to know if you think that --  
11 if you have an opinion about reading it in this way,  
12 that the Chairman was getting at earlier: In a  
13 commercial district that no portion of a building  
14 devoted to a residential use shall occupy the lot upon  
15 which it is located in excess of the percentage of lot  
16 occupancy in the following table, meaning you would  
17 look at the percentage that is devoted to residential  
18 use, and that that percentage not exceed what is in  
19 the table?

20 MR. LAWSON: Well, first I would note that  
21 the Zoning Administrator makes interpretations, not  
22 the Office of Planning, but I would state that we  
23 support the variance. We think that the variance that  
24 is being requested meets the test.

25 We felt that, for example, without the two

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1 rowhouses that the application would meet the lot  
2 occupancy requirements and that the ground floor would  
3 just include sort of nonliving residential space.

4 We also think that the definition of lot  
5 occupancy in Section 199 also relates to this issue  
6 where it talks about how lot occupancy may be measured  
7 at the lowest level where residential begins, and that  
8 is what kind of -- we felt kind of kicks the ground  
9 floor into counting as residential space. Rightly or  
10 wrongly, that has been the interpretation up until  
11 now.

12 I'm not sure that we would object to a  
13 different interpretation, but that would come from the  
14 Zoning Administrator.

15 CHAIRPERSON GRIFFIS: It's an interesting  
16 interpretation, looking at the waterfront and the  
17 mixed use, that it is from the first floor that the  
18 residential begins. But wouldn't you think that that  
19 is where the residential units begin?

20 MR. LAWSON; I wouldn't disagree with that  
21 interpretation and, as I said, you know, the reason  
22 that we feel that this application -- that the lot  
23 occupancy regulations kick in in this case is because  
24 of the potential residential on the ground floor.

25 CHAIRPERSON GRIFFIS: Right. Okay, and

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



Office of the Director

**MEMORANDUM**

**TO:** Board of Zoning Adjustment  
**FROM:** ~~US for~~ Andrew Altman, Director  
**DATE:** October 19, 2004  
**SUBJECT:** BZA Case #17224, Variance Request

**I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF**

The Office of Planning recommends approval of this application, with the condition that grocery store loading be limited to the AM period to minimize Pennsylvania Avenue traffic disruptions.

**II. APPLICATION-IN-BRIEF**

**Location:** Potomac Avenue SE and Pennsylvania Avenue SE  
Square 1045, Lots 132-137 & 834, 835, 838, 829; Ward 6B

**Applicant:** Holland & Knight LLP for JPI Apartment Development LP & Father  
Flanagan's Boys Home Et Al

**Zoning:** C-2-B  
Within the Capitol Hill Business Improvement District; the Potomac Avenue  
Metro Station Development Area; and the Pennsylvania Avenue SE Housing  
Opportunity Area

**Proposal:** Construction of a new mixed residential / commercial project.

**Relief Sought:** Variances from §772 lot occupancy and §773 residential recreation space  
requirements, pursuant to §3103.

**III. EXECUTIVE SUMMARY**

The applicant is proposing to replace most of the existing development on this site with a new 5 story building containing mostly commercial on the ground floor (including a new grocery supermarket) and over 250 residences above. A variance to lot occupancy and a variance to residential recreation space requirements are requested. OP feels that the proposal furthers planning initiatives for this location by providing an influx of new residential units as well as highly desirable retail space. The applicant has adequately met the variance tests, and requiring full conformity would not appear to provide any significant benefit to new residents or the surrounding neighborhood. As such, OP recommends approval, with minor conditions outlined at the end of this report.

**IV. AREA AND SITE DESCRIPTION** – Refer to Location Plan Attachment I, Site Plan Attachment II, and Context Photos Attachment III

The property is within the triangularly shaped Square 1045, bound by 13<sup>th</sup> Avenue SE to the west; Pennsylvania Avenue SE to the north; and Potomac Avenue SE to the south. Much of the square is

developed with rowhouse dwellings, many of which contain commercial businesses. There are a number of 4 – 6 story apartment buildings in the vicinity. The square is adjacent to but not within the Capitol Hill Historic District, and within the Potomac Avenue Metro Development Area and the Capitol Hill Business Improvement District (BID). There is an elementary school directly across Potomac Avenue SE from the site.

The 95,000 square feet (2.2 acre) subject site is located at the intersection of Pennsylvania and Potomac Avenues. It is mainly currently undeveloped with buildings, although there are some rowhouses along Pennsylvania and new rowhouses along Potomac Avenue SE. Most of the existing development, other than two rowhouses currently occupied by commercial uses on Pennsylvania Avenue, would be demolished. The site is relatively flat, and roughly triangular in shape.

## V. PROJECT DESCRIPTION

The owners propose to construct a new 5 story apartment building with 2 levels of underground parking; predominantly retail uses on the ground floor, including a new grocery store, parking, and loading facilities; and 256 residential units above. The residential units would face either the streets or an internal courtyard, located on top of ground floor retail and parking space. The highest point of the building at the corner of Pennsylvania and Potomac Avenues would have a height of 65 feet. Adjacent to existing rowhouses on Pennsylvania Avenue, the proposed building steps down to approximately 55 feet in height.

## VI. AREA PLANNING

The site is within the Potomac Avenue Metro Station Development Area, and supports the Comprehensive Plan policy for the provision of “*mixed use development of designated Metrorail station areas outside the Central Employment Area at appropriate levels of intensity and use to make full use of the public transportation opportunities that the stations provide and to increase Metrorail ridership*” (Comp Plan §1136.1(a)). The site is also within the Pennsylvania Avenue SE Housing Opportunity Area and the Capitol Hill Business Improvement District, so a mixed retail / residential development as proposed is consistent with planning objectives for the general area. The site is adjacent to, but not within the Capitol Hill Historic District. The development is generally consistent with the Comprehensive Plan Generalized Land Use Map designation for the site as **moderate density residential** (row houses and garden apartments as predominant uses) with **moderate density commercial** (drug stores, grocery stores, personal service and specialty shops) along Pennsylvania Avenue SE.

## VII. AREA ZONING – C-2-B

The property and the remainder of the square are zoned C-2-B, which permits a moderate density mixed commercial / residential development to a height of 65 feet. The proposed uses and density of development are consistent with this zoning.

## VIII. REQUESTED VARIANCE RELIEF (refer to Project Profile, Attachment IV)

The applicant has requested the following variance relief pursuant to §3103:

|    | Zoning Regulation:               | Proposed:                                 |
|----|----------------------------------|---|
| 1. | Lot Occupancy: (§772) – 80% max. | 96% at ground level; 72% for upper floors |



The zone permits a maximum lot occupancy of 80% for a building or portion of a building devoted to a residential use. There is no lot occupancy requirement for a commercial building, so lot occupancy of 100% would be possible. In this case, development is proposed to be predominantly commercial on the ground floor (other than residential entry lobby and some recreation space), with residential above.\* However, the applicant is proposing as part of this redevelopment to retain two existing rowhouses along Pennsylvania Avenue, located directly adjacent to other off-site rowhouses, which could include residential on the ground floor.

The Zoning Regulations definition for “lot occupancy” states that “...in the *Waterfront and Mixed Use Districts* (which OP understands has been interpreted to include the commercial zones) ... *the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin*” (§199.1). As noted, the upper floors are proposed to be entirely devoted to residential uses and provide a lot occupancy of 72%, less than the maximum permitted. The ground floor is almost entirely commercial, but also includes two existing rowhouses on Pennsylvania Avenue at the north end of the site. Like most or all of the rowhouses on this section of the block, these buildings are currently used by commercial businesses, rather than as residential units,\* but they were originally designed as residential and could be utilized for that purpose again. Technically, then, as the development includes some potential residential on the ground floor, and the ground floor has a lot occupancy of 96%, greater than the maximum permitted, a variance is required. OP is of the opinion that, were the existing rowhouses to be utilized for commercial purposes on their ground floors (which is permitted under the C-2-B zoning), the lot occupancy variance would not be required as the ground floor would not include any residential living space, and the project as a whole would meet the definition for percentage of lot occupancy.

**Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?**

Yes. The property is irregularly shaped, with extensive frontage on two relatively major streets for which significant retail frontage directly on the street is desired. There is relatively limited “rear” area on this site. The applicant also notes that the proposed land use – a major grocery store – provides an additional exceptional condition in its need for loading areas and some ground level parking. Finally, the retention of the two rowhouses, which will help the development fit in with the existing streetscape, presents an additional unique circumstance, in that they disproportionately impact zoning requirements in terms of lot occupancy by decreasing lot occupancy from 100% to 80% maximum.

**Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?**

Yes. The irregular shape and extensive frontage on two relatively major streets creates a practical difficulty in that they collectively limit design and desired use options. To meet lot occupancy requirements, either the size of the ground floor would have to be significantly reduced, potentially eliminating the grocery store desired by the neighborhood, or the small amount of potential residential space on the ground floor would have to be eliminated. Significant retail frontage directly on the street is preferred, so on-site parking (which would be open, undeveloped space not counting in lot occupancy) adjacent to the street has been discouraged by OP and the neighborhood.

The retention of the two rowhouses disproportionately impacts zoning requirements in terms of lot occupancy, in that this mandates that the proposal conform to the 80% lot occupancy requirement on this level, creating additional practical difficulty.

**Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

**Yes.** The proposal furthers overall goals and objectives for this area, and conforms to zoning regulations in terms of use and building bulk. The residential component conforms to the lot occupancy requirement (even though it is above grade), while the overwhelmingly commercial ground floor conforms to the intent of zoning regulations, which permit 100% lot occupancy in this zone, in part to encourage a consistent streetscape and continuous retail and residential street-walls. The technical requirement for the lot occupancy variance is the result of addressing streetscape and neighborhood planning initiative issues, to a greater degree than a strict adherence to zoning regulations might do. Retention of the two rowhouses will help the new development fit in with the streetscape and minimize potential direct impacts of the new development on existing rowhouse owners and occupants.

|           | <b>Zoning Regulation:</b>   | <b>Proposed:</b>  |
|-----------|---|---|
| <b>2.</b> | <b>Residential Rec. Space (§773) – 15%<br/>min. of residential area = 40,131 sq.ft.</b> | <b>8.4% (22,550 sq.ft. of which 17,815 sq.ft. is outdoor space)</b> |

The zone requires that an area equivalent to 15% of total residential area be devoted to residential recreation space. Of this, at least 50% is required to be outdoor space. The applicant is proposing just over half of this required amount, including recreation space as part of an entry lobby on the ground floor, which, if properly designed and programmed, would enliven the streetscape; some small enclosed areas and a portion of the courtyard area on the 1A and second levels (on top of the grocery store and parking); and three small terraces on the 4<sup>th</sup> floor, accessible to all residents.

The Office of Planning is currently in the process of drafting, for Zoning Commission consideration, changes to the residential recreation regulations at the request of the BZA and the Zoning Commission. While desirable in some locations, residential recreation space requirements can be seen to potentially work contrary to broader planning and neighborhood revitalization efforts, such as economic revitalization of neighborhoods; safe and vibrant streets through greater pedestrian activity; and increased use of existing recreation opportunities such as community centers, parks, libraries, etc. Although the exact circumstances differ for each case, the BZA has received numerous recent requests for recreation space relief, and has heard frequent testimony as part of these applications that such recreation space can limit opportunities for better uses within buildings (residential, retail, parking), and that the new residents often do not highly value or frequently use recreation space. The space is underutilized, but costly to construct and maintain. Preliminary OP analysis of past recreation space variance requests indicates that the proposed development provides a greater percentage of residential recreation space than the average for developments requesting a similar variance (5.8% provided on average as opposed to 8.4% proposed in this case).

**Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?**

**Yes.** The property is irregularly shaped, being roughly triangular. The commercial ground floor provides only very limited opportunities for either open or enclosed recreation space as it is almost entirely devoted to desired retail and the accompanying the loading and parking space.

**Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?**

**Yes.** The irregular shape and extensive frontage create a practical difficulty in that they limit design and desired use options. This difficulty is compounded by the commercial ground floor use, as encouraged by broader planning initiatives and the local community. Ground level space that might otherwise be available for recreation space is devoted to the provision of active ground floor retail (and the accompanying parking and loading requirements) with desirable street frontages. Also in conformance with broader area planning objectives, such as the Potomac Avenue Metro Development Area, the applicant is maximizing the amount of residential at this location, and additional recreation space would not appear to be readily possible without eliminating residential units. The applicant is not providing access to the roof, and is instead providing a sloped roof that is in design character with the moderate density residential area. As such, rooftop recreation space is not being provided. Given the location and the desire for an active streetscape and the presence of existing recreation opportunities in the area, the desirability or usability of additional recreation space is questionable, and its provision would be unnecessarily burdensome with little if any community benefit.

**Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

The majority of the proposed recreation space is easily accessible and of a configuration which would have some appeal to new residents. The amenity space / entry shown on the ground floor will provide an elegant and defined sense of entry to the residential portion of the building. There are many recreation space opportunities in the general area, and, as noted above, OP is in the process of drafting a proposal to amend, and likely lessen, the recreation space requirements.

**IX. COMMUNITY COMMENTS**

The applicant notes that the ANC unanimously voted to support this application at its meeting of September 14, 2004.

**X. OTHER AGENCY COMMENTS (refer to Attachment V)**

The District Department of Transportation (DDOT) noted that they met with the applicant. The applicant agreed to a series of design modifications related to parking and loading access, and DDOT accepts the locations and configurations now proposed. DDOT further notes that the applicant has agreed to a delivery restriction, to limit grocery store deliveries to the AM period only, which should be incorporated into the final order. DDOT also recommends further discussion regarding the provision of a safer and more convenient off-site connection between the development and the Metro Station. The Fire and Emergency Medical Services Department (FEMS) notes concern with the locations of fire hydrants and access to the site; issues which will be reviewed as part of the Building Permit process. The Department of Employment Services (DOES) notes that a First Source Employment Agreement to ensure that District residents receive 51% of the jobs created by this project has not been signed by the applicant; while such a requirement is standard of a PUD, it is not

germane to the requested variances. The District Water and Sewer Authority notes that existing storm water, water and sanitary sewer services will require evaluation to evaluate impact of the new development on the capacity of these systems – upgrades may be necessary. This engineering evaluation normally occurs at the Building Permit stage.

OP has not received comments on this application from any other District agency.

#### **XI. OP SUMMARY RECOMMENDATION**

The proposal represents the provision of much needed additional housing and significant retail – particularly a new grocery store – to this part of the Capitol Hill neighborhood. OP believes that the proposal conforms to broader planning initiatives to a greater degree than would a solution that fully conformed to zoning regulations. The applicant has sufficiently met the variance tests. As such, OP recommends approval of this application.

OP further recommends the following condition be included in the Order:

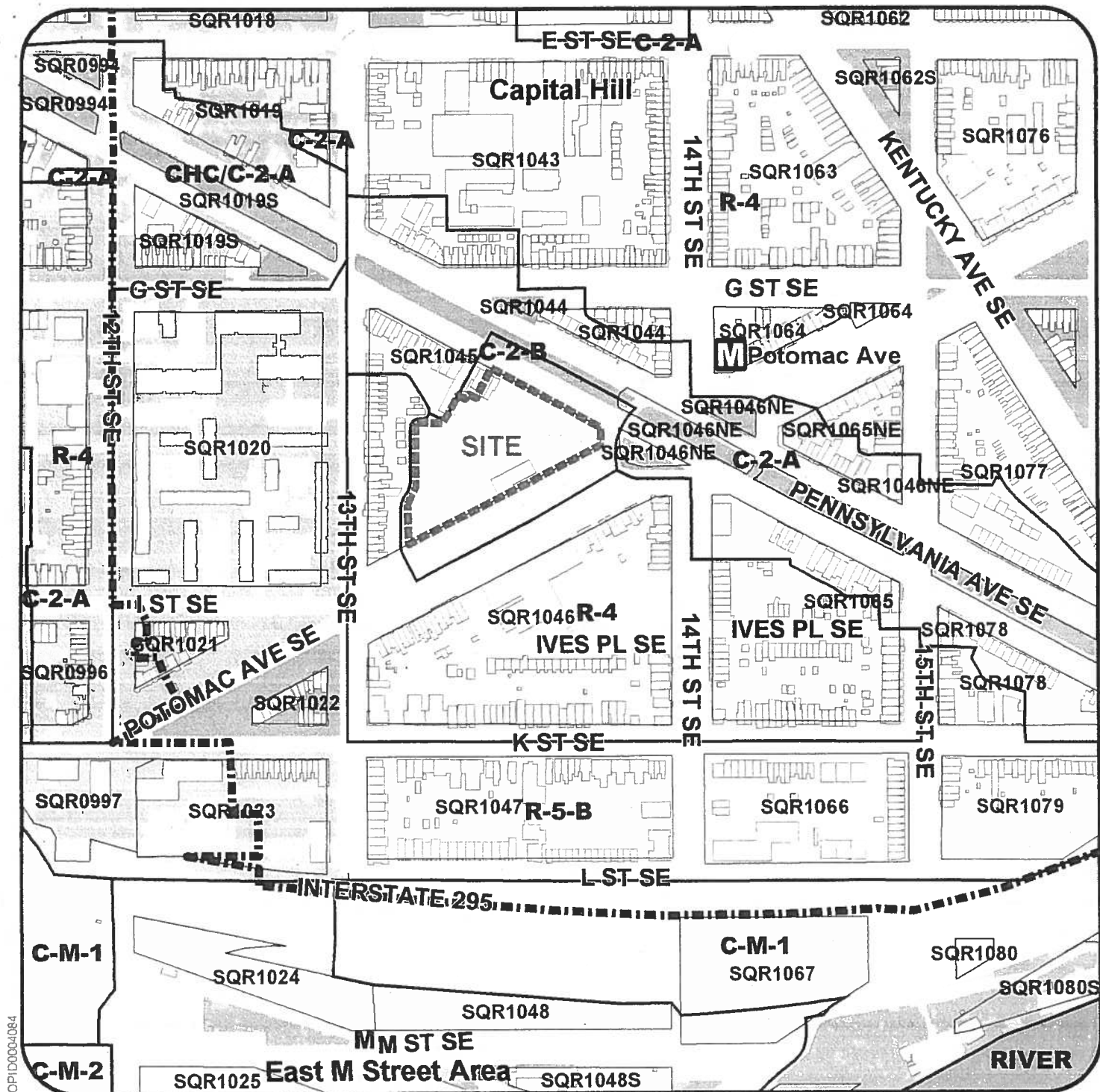
- In conformance with the DDOT recommendation, grocery store loading be limited to the AM period to minimize Pennsylvania Avenue traffic disruptions.

OP further encourages the applicant to continue discussion with DDOT on the provision of a safer and more easily negotiable connection between the site and the Potomac Avenue Metro Station.

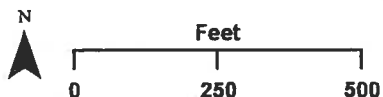
AA/jl

#### **ATTACHMENTS:**

- I. Context Plan
- II. Site Plan
- III. Context Photos
- IV. Project Profile



## Location Plan - BZA Case # 17224 Potomac Ave. & Pennsylvania Ave. SE



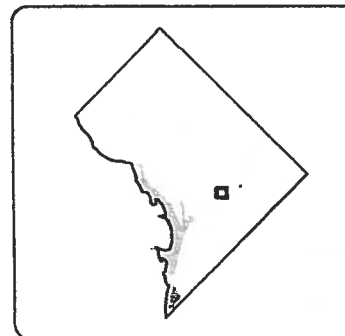
★ ★ ★ Government of the  
District of Columbia  
Anthony A. Williams, Mayor

Office of Planning ~ October, 2004

This map was created for planning  
purposes from a variety of sources.  
It is neither a survey nor a legal document.  
Information provided by other agencies  
should be verified with them where appropriate.

### Legend

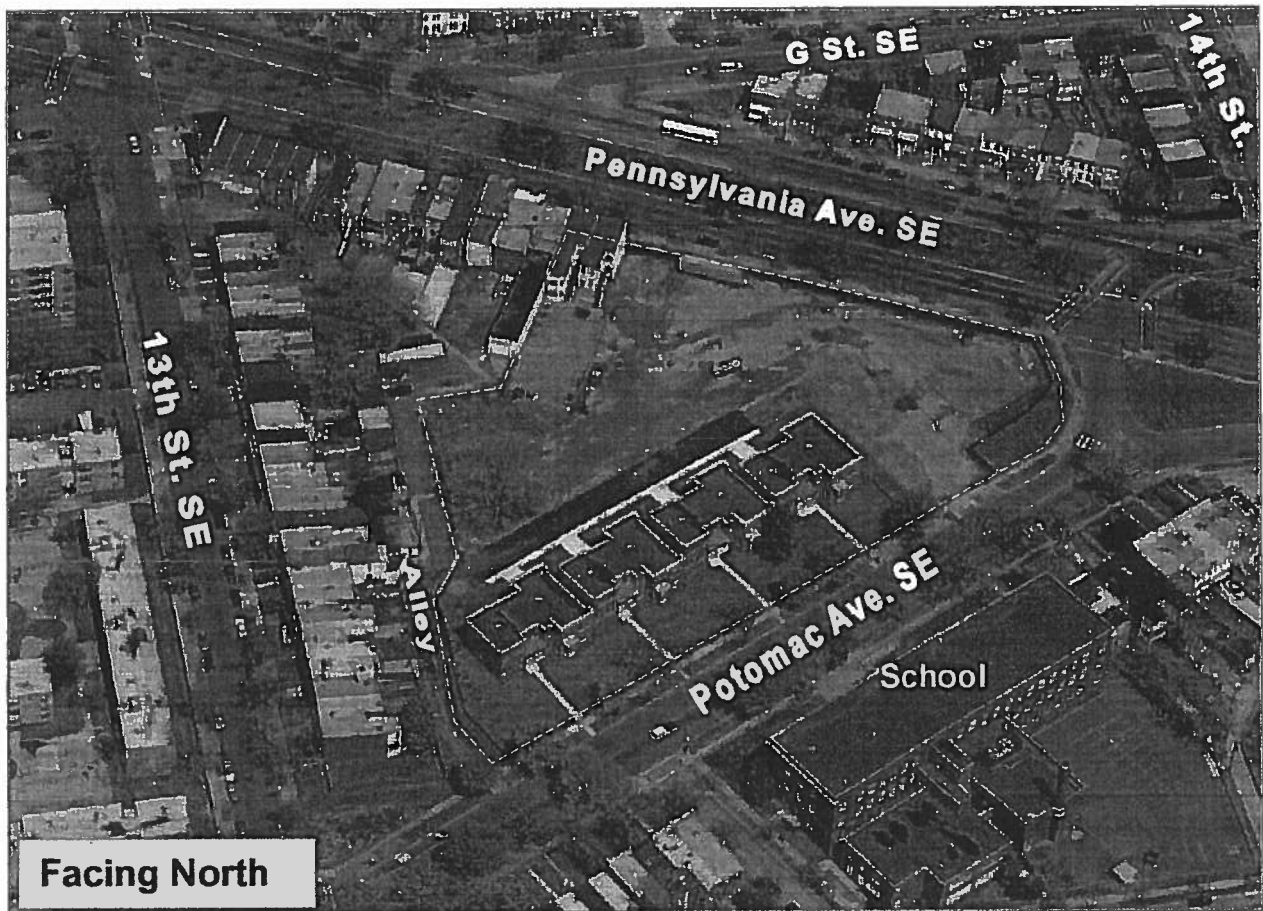
- Property Squares
- Metro Development Areas (MDA)
- Parks
- Zoning Districts
- Capitol Hill Historic District



Attachment 1







| Standard                             | C-2-B Zone Regulations  | Existing / Proposed <sup>1</sup>   | Relief                  |
|--------------------------------------|---|--|-------------------------|
| <b>Development Type:</b>             | Commercial / residential  | Low rise residential with ground floor retail  | Conforming              |
| <b>Lot Area:</b>                     | n/a <sup>2</sup>  | 95,047 sq.ft.  | Conforming              |
| <b>Height: (§770)</b>                | 65' max.  | 65 ft. max.  | Conforming              |
| <b>Floor Area Ratio: (§771)</b>      | Residential – 3.5 max.<br>Non-residential – 1.5 max.  | total = 3.48;<br>non-residential = .55 FAR   | Conforming              |
| <b>Square Footage:</b>               | Residential – 332,665 sq.ft. max.<br>Non-res'l – 142,571 sq.ft. max.<br>Total – 332,665 sq.ft. max. | Residential – 275,933 sq.ft.<br>Commercial – 52,538 sq.ft.<br>Total – 328,471 sq.ft. | Conforming              |
| <b>Lot Occupancy: (§772)</b>         | 80% max. for residential use  | 96% at ground level;<br>72% for upper floors   | Variance required       |
| <b>Residential Rec. Space (§773)</b> | 15% min.,<br>40,131 sq.ft. min.   | 8.4% = 22,550 sq.ft.<br>17,815 sq.ft. outdoor  | Variance required       |
| <b>Rear Yard: (§774)</b>             | 15 ft. min.   | 15 ft.   | Conforming              |
| <b>Side Yard: (§405)</b>             | Not required  | 0 ft.  | Conforming              |
| <b>Parking: (§2101.1)</b>            | Res. – 1 / 3 units = 85 min.<br>Retail = 1/750sq.ft. > 3,000 = 63<br>Total = 148                    | Res. = 246<br>Retail = 184<br>Total = 430, underground <sup>3</sup>                  | Conforming              |
| <b>Loading (§2201):</b>              |   |  |                         |
| <b>Loading Berths:</b>               | Res. = 1 @ 55' deep<br>Retail = 1 @ 30' + 1 @ 55' deep  | Res. = 1 @ 55' deep<br>Retail = 1 @ 30' + 1 @ 55' deep                               | Conforming <sup>4</sup> |
| <b>Loading Platforms:</b>            | Res. = 1 @ 200 sq.ft.<br>Retail = 1 @ 100 sq.ft. + 1 @ 200 sq.ft.                                   | Res. = 1 @ 200 sq.ft.<br>Retail = 1 @ 100 sq.ft. + 1 @ 200 sq.ft.                    | Conforming <sup>4</sup> |

<sup>1</sup> Information provided by the applicant.

<sup>2</sup> No minimum lot area or width prescribed.

<sup>3</sup> Accessed from Potomac Avenue.

<sup>4</sup> Conforming if all retail utilizes grocery store loading / service area.



**Agency Comments**

**Fire and Emergency Medical Services Department (FEMS) (letter attached)**

**Department of Employment Services (DOES)(letter attached)**

**District Water and Sewer Authority (WASA) (letter attached)**

**DC Department of Transportation (DDOT) (via email)**

DDOT has met with the applicants. Some changes to the corner radius from the driveway to Pennsylvania were requested, in order to keep the trucks from swinging into travel lanes, and the applicant appears to have complied in the submitted plans. They also agreed to restrictions on the timing of deliveries, to the AM period only (the east-bound traffic on Pennsylvania is very light). We should insist upon these restrictions.

DDOT discouraged the creation of an internal access driveway on Potomac Avenue for apartment residents which the applicant has also complied with, providing a lay-by instead, which DDOT supports.


Although the proposal includes the provision of a lot of parking, it will be needed for the grocery shoppers, and, due to the proximity to the Metro station, it is anticipated that the residents will not have to use their cars on a regular basis. However, further discussions with DDOT are encouraged to address pedestrian circulation between the site and the metro station, which is a particularly difficult crossing for pedestrians.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT  
WASHINGTON, D.C. 20001



**MEMORANDUM**

**TO:** Arthur Jackson  
Development Review Specialist  
Office of Planning

**FROM:** Gary L. Palmer   
Acting Fire Marshal

**DATE:** September 14, 2004

**SUBJECT:** BZA Case No. 17224

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The D.C. Fire and EMS Department has reviewed the above case.

The applicant proposes to construct a multi-unit residential building with retail on the ground level and two variances, lot occupancy and amount on residential recreation space.

We concerned about the locations of the fire hydrants and fire department access roads into the mixed-use project and would like to review the locations of the above-mentioned items, along with the locations of all fire department standpipe and sprinkler connections.

If you have any questions concerning this review, please contact my office at 727-3659.

ATTACHMENT V


GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Department of Employment Services

Office of Employer Services



**MEMORANDUM**

**TO:** Joel Lawson  
Development Review Specialist  
Office of Planning

**FROM:** Margaret V. Wright   
Acting Associate Director  
Office of Employer Services

**DATE:** SEP 30 2004

**SUBJECT:** Review of Zoning Commission Case 17224 – Mixed Use Development at Potomac and Pennsylvania Avenues SE

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As requested, the Department of Employment Services (DOES) has reviewed Zoning Commission Case 17224, which is a proposed mixed used development to be constructed at Potomac Avenue and Pennsylvania Avenue, SE.

The Applicant, JPI Apartment Development, L.P., plans to construct a multi-unit residential building with retail space (including a grocery store) on the ground level. In addition to the retail space, the project will include approximately 430 underground parking spaces.

In evaluating the application, JPI Apartment Development, L.P. did not sign a First Source Employment Agreement to ensure that District residents receive 51% of the new jobs created by this project. This employer must enter into a First Source Employment Agreement with DOES in order for the application request to be considered.

It is advised that JPI Apartment Development, L.P. contact Vernell Jordan at (202) 698-5774 or [vernell.jordan@dc.gov](mailto:vernell.jordan@dc.gov) for assistance in acquiring and completing the First Source Employment Agreement.



ATTACHMENT V

**DISTRICT OF COLUMBIA SEWER AND WATER AUTHORITY**  
5000 OVERLOOK AVE SW, WASHINGTON, DC 20032

**MEMORANDUM:**

October 04, 2004

**To:** Joel Lawson, Development Review Planner  
DC Office of Planning

**Thru:** Jodye Russell, Supervisor  
Planning Section

**From:** Kamlesh Parekh, P.E.  
Civil Engineer

**Subject:** Zoning Commission Case # BZA Case 17224  
Potomac and Pennsylvania Avenue, S.E.

Thank you for giving us an opportunity to review the subject project. The District of Columbia Water and Sewer Authority (DCWASA) has reviewed the information for the above referenced project. We offer the following comments:

Storm Sewer Requirements: Capacity of the existing storm sewers must be evaluated because proposed zoning will change the existing land use from C-2B zone to fully developed five story mixed-use residential building with urban setting. This land use change will increase surface runoff, pollutant load as well as peak flow. If the existing 12-inch combined sewer on Pennsylvania Avenue and 10 inch combined sewer on Potomac Avenue SE do not have adequate hydraulic capacity, an on-site storage of storm water for quantity control and a structure for storm water quality control will be required.

Water Requirements: The existing 8-inch water main on Pennsylvania Avenue and the 8-inch water line on Potomac Avenue may not have adequate water capacity for fire protection (65 feet height of the building) and daily uses. Pressure and flow tests of the existing water mains will be required to assess availability of water. Also, water flow requirements for fire protection will be needed to evaluate impact of the new development on the water system.

Sanitary Sewer Requirements: In order to evaluate adequacy of the sanitary sewer, you will need to provide future average and maximum daily wastewater flow from the new development.

If you have any question, please feel free to contact Kamlesh Parekh at 202-787-2415 or e-mail at [kparekh@dcwasa.com](mailto:kparekh@dcwasa.com)



# ZONING SELF-CERTIFICATION FORM



| Project Address(es)                      | Square | Lot(s)                  | Zone District(s) | ANC(s)/Single Member District(s) |
|--|--------|-------------------------|------------------|----------------------------------|
| 1308, 1310, 1312, 1314 Potomac Ave SE DC | 1045   | 134, 135, 136, 132, 133 | C-2B             | 6B07                             |
| 1343, 1345 Pennsylvania Ave SE DC        | 1045   | 834, 835                | C-2B             | 6B07                             |
|  |        | 838, 839                | C-2B             | 6B07                             |

## CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

|                         |   |   |  |
|-------------------------|---|---|--|
| Relief Sought           | <input type="checkbox"/> §3103.2 - Use Variance | <input checked="" type="checkbox"/> §3103.2 - Area V riance | <input type="checkbox"/> §3104.1-Special Exception |
| Pursuant to Subsections | Section 773                                     |   |  |

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

- (1) the agent is duly licensed to practice law or architecture in the District of Columbia;
- (2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
- (3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

|                                      |             |  |  |
|--------------------------------------|-------------|--|--|
| <br><small>Owner's Signature</small> |             | For Fatur Flanagan's Boy, HWEF<br><small>Owner's Name (Please Print)</small> |  |
| <br><small>Agent's Signature</small> |             | MERAL ISKIR, AIA 7/27/04<br><small>Agent's Name (Please Print)</small>       |  |
| Date                                 | D.C. Bar No | or   | Architect<br>Registration No. ARC 100344 |

## OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is

|                          |  |
|--------------------------|--|
| <input type="checkbox"/> | Accepted for filing.   |
| <input type="checkbox"/> | Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.   |
| <input type="checkbox"/> | Rejected for failure to comply with the provisions of<br><input type="checkbox"/> DCMR Title 11 §3113.2; or<br><input type="checkbox"/> DCMR Title 11 Zoning Regulations.<br>Explanation _____ |

**BZA**  
**Case No. 17224**  
**Exhibit No. 8**

RECEIVED  
 OFFICE OF ZONING  
 JUL 27 2004

|           |      |
|-----------|------|
| Signature | Date |
|-----------|------|

Jerrily R. Kress, FAIA – Director  
District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001  
(202) 727-6311 \* (202) 727-6072 fax \* www.dcoz.dc.gov

**INSTRUCTIONS**

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on Form 135. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of paper to complete this form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 Application to the Office of Zoning, 441 4<sup>th</sup> Street, N.W., Suite 210, Washington, D.C. 2001.

| ITEM  | EXISTING<br>CONDITIONS | MINIMUM<br>REQUIRED | MAXIMUM<br>ALLOWED   | PROVIDED BY<br>PROPOSED<br>CONSTRUCTION  | VARIANCE<br>Deviation/Percent |
|---|------------------------|---------------------|----------------------|--|-------------------------------|
| <b>Lot Area</b><br>(sq. ft.)                        | 95,047 SF              |                     |                      |  |                               |
| <b>Lot Width</b><br>(ft. to the tenth)              | 247                    |                     |                      |  |                               |
| <b>Lot Occupancy</b><br>(building area/lot area)    | N/A                    |                     | 80% residential uses | 96% - ground level<br>72% - upper levels | 16% - ground level            |
| <b>Floor Area Ratio (FAR)</b><br>(ft. to the tenth) | N/A                    |                     | 3.5                  | 3.48                                     |                               |
| <b>Parking Spaces</b><br>(number)                   | N/A                    | 150                 |                      | 430                                      |                               |
| <b>Loading Berths</b><br>(number and size in ft.)   | N/A                    | 2-30'; 2-55'; 2-20' |                      | 2-30'; 2-55'; 2-20'                      |                               |
| <b>Front Yard</b><br>(ft. to the tenth)             | N/A                    | 0                   |                      | 0  |                               |
| <b>Rear Yard</b><br>(ft. to the tenth)              | N/A                    | 15'                 |                      | 15'                                      |                               |
| <b>Side Yard</b><br>(ft. to the tenth)              | N/A                    | 0                   |                      | 0  |                               |
| <b>Court, Open</b><br>(width by depth in ft.)       | N/A                    |                     |                      | N/A                                      |                               |
| <b>Court Closed</b><br>(width by depth in ft.)      | N/A                    | 60' and 50'         |                      |  |                               |
| <b>Height</b><br>(ft. to the tenth)                 | N/A                    |                     | 65'                  | 65'                                      |                               |

# JENKINS ROW

7/16/2004

SK | Architectural Design Group, LLC

## Fea Calculations

## 4 Story Apartments + Grocery Store

| Floor        | Residential | Resid. Amen. | Harris Teeter | Retail | Entrance | Townhouse | Garage  | Gross area | FAR area | Parking spaces |
|--------------|-------------|--------------|---------------|--------|----------|-----------|---------|------------|----------|----------------|
| G2           |             |              |               |        |          |           | 87,790  | 86,902     | 0        | 200            |
| G1           |             |              |               |        |          |           | 87,790  | 86,979     | 0        | 190            |
| Ground floor |             | 8,395        | 45,639        | 5,760  | 1,846    | 2,048     | 24,655  | 88,343     | 63,688   | 40             |
| Level-1A     | 12,239      |              | 1,139         |        |          |           |         |            | 13,378   |                |
| Level-1      | 66,721      |              |               |        |          | 2,048     |         | 68,769     | 68,769   |                |
| Level-2      | 66,721      |              |               |        |          |           |         | 66,721     | 66,721   |                |
| Level-3      | 66,721      |              |               |        |          |           |         | 66,721     | 66,721   |                |
| Level-4      | 51,040      |              |               |        |          |           |         | 51,040     | 51,040   |                |
| Totals       | 263,442     | 8,395        | 46,778        | 5,760  | 1,846    | 4,096     | 200,235 | 515,475    | 330,317  | 430            |
| FAR          | 3.48        |              |               |        |          |           |         |            |          |                |

|               |         |
|---------------|---------|
| Site Area     | 95,047  |
| Max FAR (3.5) | 332,665 |
| Resid. FAR    | 275,933 |
| Units         | 256     |

52,538

|   |        |
|---|--------|
| lot coverage including everything at ground floor | 91,071 |
|   | 96%    |

|                                   |        |
|-----------------------------------|--------|
| lot coverage at residential above | 68,769 |
|                                   | 72%    |